IN THE HIGH COURT OF BOMBAY AT GOA
CRIMINAL REVISION APPLICATION NO. 64 OF 2006

Shri Chandrakant K. Mahindrakar
Major of age, married,
New Modern Market,
Vasco-da-Gama, Goa. ..... Petitioner

V e r s u s

1. Shri Lalji Saroj
Major of age,
r/o. H. No. 259/1,
Near Railway Quarters,
Driver Hill,
Vasco-da-Gama, Goa.

2. State of Goa. ..... Respondents

Mr. Rahul Satardekar, Advocate for the Petitioner.
Mr. A. D. Bhobe, Advocate for Respondent no.1/Complainant.
Ms. Winnie Coutinho, Public Prosecutor for the State.

CORAM: N. A. BRITTO, J.

DATE: 24th January, 2007.

ORAL JUDGMENT

Heard Shri Satardekar and Shri Bhobe, the learned Counsel on behalf of the petitioner/accused and respondent no.1/Complainant, respectively.

2. In this revision, the petitioner-accused has assailed the Judgment dated 24.11.2006 of the learned Additional Sessions Judge, Margao, upholding the Judgment dated 03.05.2006 of the learned J.M.F.C., Vasco da Gama, by which, the petitioner-accused was convicted and sentenced under Section 138 of the Negotiable Instruments Act, 1881.

3. Learned Counsel on behalf of the petitioner-accused contends that a blank cheque signed by the accused was stolen by his nephew/Dw2 and handed over to the Complainant towards the discharge of a liability of Rs.35,000/-, which the said nephew had towards the Complainant and this evidence has not been correctly appreciated by both the Courts below.

4. If at all the Complainant accepted anything as regards to Rs.35,000/-, it was that it was paid by the accused with a promise that the balance would be paid after two months. There is no whisper that it was paid by the nephew/Dw2 of the accused towards his own liability to the Complainant. In my view, both the Courts below correctly appreciated the evidence led on behalf of the Complainant and the accused and have come to the conclusion that the subject cheque of Rs.90,000/- was issued by the accused to the Complainant towards the loan of Rs.90,000/-, which the Complainant had disbursed to the accused on two occasions as stated by him. In my view, there is no merit in this revision and, consequently, the same is hereby dismissed.

5. The sum of Rs.60,000/- deposited by the accused in this Court pursuant to Order dated 21.12.2006, shall be paid to the Complainant/respondent no.1.

N. A. BRITTO, J.

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